No. 06-7949

IN THE SUPREME COURT OF THE UNITED STATES

BRIAN MICHAEL GALL, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

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Petitioner contends that the standards applied by the court of appeals in reviewing his below-Guidelines sentence for unreasonableness are inconsistent with United States v. Booker, 543 U.S. 220 (2005). On November 3, 2006, this Court granted certiorari in Claiborne v. United States, No. 06-5618, and Rita v. United States, No. 06-5754, to address various aspects of sentencing procedure under Booker, including, in Claiborne, the standards to be applied in reviewing a below-Guidelines sentence for unreasonableness. Accordingly, the petition for a writ of certiorari should be held pending the Court's resolution of Claiborne and Rita, and then disposed of as appropriate in light

of the decisions in those cases.[1]

PAUL D. CLEMENT
Solicitor General

DECEMBER 2006

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[1] The government waives any further response to the petition unless this Court requests otherwise.